

CHAPTER 566. FRAUDULENT CONVEYANCES AND CONTRACTS

AGREEMENTS TO MODIFY OR DISCHARGE CONTRACTS

Act 238 of 1941

AN ACT relative to agreements to change or modify, or to discharge in whole or in part, any contract, obligation, or lease, or any mortgage or other security interest in personal or real property; and to repeal all acts and parts of acts inconsistent with the provisions of this act.

History: 1941, Act 238, Eff. Jan. 10, 1942.

The People of the State of Michigan enact:

566.1 Agreements to modify or discharge contracts and obligations valid without consideration.

Sec. 1. An agreement hereafter made to change or modify, or to discharge in whole or in part, any contract, obligation, or lease, or any mortgage or other security interest in personal or real property, shall not be invalid because of the absence of consideration: Provided, That the agreement changing, modifying, or discharging such contract, obligation, lease, mortgage or security interest shall not be valid or binding unless it shall be in writing and signed by the party against whom it is sought to enforce the change, modification, or discharge.

History: 1941, Act 238, Eff. Jan. 10, 1942;—CL 1948, 566.1.

THE UNIFORM FRAUDULENT CONVEYANCE ACT

Act 310 of 1919

566.11-566.23 Repealed. 1998, Act 434, Imd. Eff. Dec. 30, 1998.

UNIFORM FRAUDULENT TRANSFER ACT
Act 434 of 1998

AN ACT to define and regulate fraudulent transfers and conveyances; to set aside and modify certain transfers and conveyances; to make uniform the law of fraudulent transfers; and to repeal acts and parts of acts.

History: 1998, Act 434, Imd. Eff. Dec. 30, 1998.

The People of the State of Michigan enact:

***** 566.31 THIS SECTION IS AMENDED EFFECTIVE MARCH 8, 2017: See 566.31.amended *****

566.31 Definitions.

Sec. 1. As used in this act:

(a) "Affiliate" means 1 or more of the following:

(i) A person who directly or indirectly owns, controls, or holds with power to vote 20% or more of the outstanding voting securities of the debtor, other than a person who holds the securities in either of the following circumstances:

(A) As a fiduciary or agent without sole discretionary power to vote the securities.

(B) Solely to secure a debt, if the person has not exercised the power to vote.

(ii) A corporation 20% or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote by the debtor or a person who directly or indirectly owns, controls, or holds, with power to vote, 20% or more of the outstanding voting securities of the debtor, other than a person who holds the securities in either of the following circumstances:

(A) As a fiduciary or agent without sole power to vote the securities.

(B) Solely to secure a debt, if the person has not in fact exercised the power to vote.

(iii) A person whose business is operated by the debtor under a lease or other agreement, or a person substantially all of whose assets are controlled by the debtor.

(iv) A person who operates the debtor's business under a lease or other agreement or controls substantially all of the debtor's assets.

(b) "Asset" means property of a debtor, but the term does not include any of the following:

(i) Property to the extent it is encumbered by a valid lien.

(ii) Property to the extent it is generally exempt under nonbankruptcy law.

(iii) An interest in property held in tenancy by the entireties to the extent it is not subject to process by a creditor holding a claim against only 1 tenant.

(c) "Claim" means a right to payment, whether or not the right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured.

(d) "Creditor" means a person who has a claim.

(e) "Debt" means liability on a claim.

(f) "Debtor" means a person who is liable on a claim.

(g) "Insider" includes all of the following:

(i) If the debtor is an individual, all of the following:

(A) A relative of the debtor or of a general partner of the debtor.

(B) A partnership in which the debtor is a general partner.

(C) A general partner in a partnership described in sub-subparagraph (B).

(D) A corporation of which the debtor is a director, officer, or person in control.

(ii) If the debtor is a corporation, all of the following:

(A) A director of the debtor.

(B) An officer of the debtor.

(C) A person in control of the debtor.

(D) A partnership in which the debtor is a general partner.

(E) A general partner in a partnership described in sub-subparagraph (D).

(F) A relative of a general partner, director, officer, or person in control of the debtor.

(iii) If the debtor is a partnership, all of the following:

(A) A general partner in the debtor.

(B) A relative of a general partner in, a general partner of, or a person in control of the debtor.

(C) Another partnership in which the debtor is a general partner.

- (D) A general partner in a partnership described in sub-subparagraph (C).
- (E) A person in control of the debtor.
- (iv) An affiliate, or an insider of an affiliate as if the affiliate were the debtor.
- (v) A managing agent of the debtor.
- (h) "Lien" means a charge against or an interest in property to secure payment of a debt or performance of an obligation, and includes a security interest created by agreement, a judicial lien obtained by legal or equitable process or proceedings, a common-law lien, or a statutory lien.
- (i) "Person" means an individual, partnership, corporation, association, organization, government or governmental subdivision or agency, business trust, estate, trust, or any other legal or commercial entity.
- (j) "Property" means anything that may be the subject of ownership.
- (k) "Relative" means an individual related by consanguinity within the third degree as determined by the common law, a spouse, or an individual related to a spouse within the third degree as so determined, and includes an individual in an adoptive relationship within the third degree.
- (l) "Transfer" means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with an asset or an interest in an asset. Transfer includes payment of money, release, lease, and creation of a lien or other encumbrance. Transfer does not include any of the following:
 - (i) The lapse, release, waiver, or disclaimer of a power of appointment given to a donee by a third party. As used in this subparagraph, "donee" means that term as defined in section 2 of the powers of appointment act of 1967, 1967 PA 224, MCL 556.112.
 - (ii) The disposing of or parting with an asset or interest in an asset held in trust to the person who created the trust if all of the following apply:
 - (A) The trust is an irrevocable trust for the benefit of third parties.
 - (B) The trust is a grantor trust with regard to the person for income tax purposes pursuant to sections 671 to 679 of the internal revenue code, 26 USC 671 to 679.
 - (C) The trustee has the discretionary authority to reimburse or advance trust property to the person for taxes concerning income attributable to the trust property.
 - (D) The disposing of or parting with the asset or interest in the asset is the exercise by the trustee of the discretionary authority described in sub-subparagraph (C).
- (m) "Valid lien" means a lien that is effective against the holder of a judicial lien subsequently obtained by legal or equitable process or proceedings.

History: 1998, Act 434, Imd. Eff. Dec. 30, 1998;—Am. 2009, Act 44, Eff. Apr. 1, 2010.

***** 566.31.amended *THIS AMENDED SECTION IS EFFECTIVE MARCH 8, 2017* *****

566.31.amended Definitions.

Sec. 1. As used in this act:

- (a) "Affiliate" means 1 or more of the following:
 - (i) A person who directly or indirectly owns, controls, or holds with power to vote 20% or more of the outstanding voting securities of the debtor, other than a person who holds the securities in either of the following circumstances:
 - (A) As a fiduciary or agent without sole discretionary power to vote the securities.
 - (B) Solely to secure a debt, if the person has not exercised the power to vote.
 - (ii) A corporation 20% or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote by the debtor or a person who directly or indirectly owns, controls, or holds, with power to vote, 20% or more of the outstanding voting securities of the debtor, other than a person who holds the securities in either of the following circumstances:
 - (A) As a fiduciary or agent without sole power to vote the securities.
 - (B) Solely to secure a debt, if the person has not in fact exercised the power to vote.
 - (iii) A person whose business is operated by the debtor under a lease or other agreement, or a person substantially all of whose assets are controlled by the debtor.
 - (iv) A person who operates the debtor's business under a lease or other agreement or controls substantially all of the debtor's assets.
- (b) "Asset" means property of a debtor. Asset does not include any of the following:
 - (i) Property to the extent it is encumbered by a valid lien.
 - (ii) Property to the extent it is generally exempt under nonbankruptcy law.
 - (iii) An interest in property held in tenancy by the entireties to the extent it is not subject to process by a creditor holding a claim against only 1 tenant.
- (c) "Claim" means a right to payment, whether or not the right is reduced to judgment, liquidated,

unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured.

(d) "Creditor" means a person who has a claim.

(e) "Debt" means liability on a claim.

(f) "Debtor" means a person who is liable on a claim.

(g) "Insider" includes all of the following:

(i) If the debtor is an individual, all of the following:

(A) A relative of the debtor or of a general partner of the debtor.

(B) A partnership in which the debtor is a general partner.

(C) A general partner in a partnership described in sub-subparagraph (B).

(D) A corporation of which the debtor is a director, officer, or person in control.

(ii) If the debtor is a corporation, all of the following:

(A) A director of the debtor.

(B) An officer of the debtor.

(C) A person in control of the debtor.

(D) A partnership in which the debtor is a general partner.

(E) A general partner in a partnership described in sub-subparagraph (D).

(F) A relative of a general partner, director, officer, or person in control of the debtor.

(iii) If the debtor is a partnership, all of the following:

(A) A general partner in the debtor.

(B) A relative of a general partner in, a general partner of, or a person in control of the debtor.

(C) Another partnership in which the debtor is a general partner.

(D) A general partner in a partnership described in sub-subparagraph (C).

(E) A person in control of the debtor.

(iv) An affiliate, or an insider of an affiliate as if the affiliate were the debtor.

(v) A managing agent of the debtor.

(h) "Lien" means a charge against or an interest in property to secure payment of a debt or performance of an obligation, and includes a security interest created by agreement, a judicial lien obtained by legal or equitable process or proceedings, a common-law lien, or a statutory lien.

(i) "Person" means an individual, partnership, corporation, association, organization, government or governmental subdivision or agency, business trust, estate, trust, or any other legal or commercial entity.

(j) "Property" means anything that may be the subject of ownership.

(k) "Qualified disposition" means that term as defined in section 2 of the qualified dispositions in trust act.

(l) "Relative" means an individual related by consanguinity within the third degree as determined by the common law, a spouse, or an individual related to a spouse within the third degree as so determined, and includes an individual in an adoptive relationship within the third degree.

(m) "Transfer" means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with an asset or an interest in an asset. Transfer includes payment of money, release, lease, and creation of a lien or other encumbrance. Transfer does not include any of the following:

(i) The lapse, release, waiver, or disclaimer of a power of appointment given to a donee by a third party. As used in this subparagraph, "donee" means that term as defined in section 2 of the powers of appointment act of 1967, 1967 PA 224, MCL 556.112.

(ii) The disposing of or parting with an asset or interest in an asset held in trust to the person who created the trust if all of the following apply:

(A) The trust is an irrevocable trust for the benefit of third parties.

(B) The trust is a grantor trust with regard to the person for income tax purposes under sections 671 to 679 of the internal revenue code of 1986, 26 USC 671 to 679.

(C) The trustee has the discretionary authority to reimburse or advance trust property to the person for taxes concerning income attributable to the trust property.

(D) The disposing of or parting with the asset or interest in the asset is the exercise by the trustee of the discretionary authority described in sub-subparagraph (C).

(n) "Valid lien" means a lien that is effective against the holder of a judicial lien subsequently obtained by legal or equitable process or proceedings.

History: 1998, Act 434, Imd. Eff. Dec. 30, 1998;—Am. 2009, Act 44, Eff. Apr. 1, 2010;—Am. 2016, Act 331, Eff. Mar. 8, 2017.

566.32 Insolvency.

Sec. 2. (1) A debtor is insolvent if the sum of the debtor's debts is greater than all of the debtor's assets at a fair valuation.

(2) A debtor who is generally not paying his or her debts as they become due is presumed to be insolvent.

(3) A partnership is insolvent under subsection (1) if the sum of the partnership's debts is greater than the aggregate, at a fair valuation, of all of the partnership's assets and the sum of the excess of the value of each general partner's nonpartnership assets over the partner's nonpartnership debts.

(4) As used in this section:

(a) Assets do not include property that has been transferred, concealed, or removed with intent to hinder, delay, or defraud creditors or that has been transferred in a manner making the transfer voidable under this act.

(b) Debts do not include an obligation to the extent it is secured by a valid lien on property of the debtor not included as an asset.

History: 1998, Act 434, Imd. Eff. Dec. 30, 1998.

566.33 Transfer for value.

Sec. 3. (1) Value is given for a transfer or an obligation if, in exchange for the transfer or obligation, property is transferred or an antecedent debt is secured or satisfied. Value does not include an unperformed promise made otherwise than in the ordinary course of the promisor's business to furnish support to the debtor or another person.

(2) For the purposes of sections 4(a)(2) and 5, a person gives a reasonably equivalent value if the person acquires an interest of the debtor in an asset pursuant to a regularly conducted, noncollusive foreclosure sale or execution of a power of sale for the acquisition or disposition of the interest of the debtor upon default under a mortgage, deed of trust, or security agreement.

(3) A transfer is made for present value if the exchange between the debtor and the transferee is intended by them to be contemporaneous and is in fact substantially contemporaneous.

History: 1998, Act 434, Imd. Eff. Dec. 30, 1998.

***** 566.34 THIS SECTION IS AMENDED EFFECTIVE MARCH 8, 2017: See 566.34.amended *****

566.34 Transfer with intent to defraud.

Sec. 4. (1) A transfer made or obligation incurred by a debtor is fraudulent as to a creditor, whether the creditor's claim arose before or after the transfer was made or the obligation was incurred, if the debtor made the transfer or incurred the obligation in either of the following:

(a) With actual intent to hinder, delay, or defraud any creditor of the debtor.

(b) Without receiving a reasonably equivalent value in exchange for the transfer or obligation, and the debtor did either of the following:

(i) Was engaged or was about to engage in a business or a transaction for which the remaining assets of the debtor were unreasonably small in relation to the business or transaction.

(ii) Intended to incur, or believed or reasonably should have believed that he or she would incur, debts beyond his or her ability to pay as they became due.

(2) In determining actual intent under subsection (1)(a), consideration may be given, among other factors, to whether 1 or more of the following occurred:

(a) The transfer or obligation was to an insider.

(b) The debtor retained possession or control of the property transferred after the transfer.

(c) The transfer or obligation was disclosed or concealed.

(d) Before the transfer was made or obligation was incurred, the debtor had been sued or threatened with suit.

(e) The transfer was of substantially all of the debtor's assets.

(f) The debtor absconded.

(g) The debtor removed or concealed assets.

(h) The value of the consideration received by the debtor was reasonably equivalent to the value of the asset transferred or the amount of the obligation incurred.

(i) The debtor was insolvent or became insolvent shortly after the transfer was made or the obligation was incurred.

(j) The transfer occurred shortly before or shortly after a substantial debt was incurred.

(k) The debtor transferred the essential assets of the business to a lienor who transferred the assets to an insider of the debtor.

History: 1998, Act 434, Imd. Eff. Dec. 30, 1998.

***** 566.34.amended THIS AMENDED SECTION IS EFFECTIVE MARCH 8, 2017 *****

566.34.amended Transfer with intent to defraud.

Sec. 4. (1) Except as otherwise provided in subsection (3), a transfer made or obligation incurred by a debtor is fraudulent as to a creditor, whether the creditor's claim arose before or after the transfer was made or the obligation was incurred, if the debtor made the transfer or incurred the obligation in either of the following:

(a) With actual intent to hinder, delay, or defraud any creditor of the debtor.

(b) Without receiving a reasonably equivalent value in exchange for the transfer or obligation, and the debtor did either of the following:

(i) Was engaged or was about to engage in a business or a transaction for which the remaining assets of the debtor were unreasonably small in relation to the business or transaction.

(ii) Intended to incur, or believed or reasonably should have believed that he or she would incur, debts beyond his or her ability to pay as they became due.

(2) In determining actual intent under subsection (1)(a) or (3), consideration may be given, among other factors, to whether 1 or more of the following occurred:

(a) The transfer or obligation was to an insider.

(b) The debtor retained possession or control of the property transferred after the transfer.

(c) The transfer or obligation was disclosed or concealed.

(d) Before the transfer was made or obligation was incurred, the debtor had been sued or threatened with suit.

(e) The transfer was of substantially all of the debtor's assets.

(f) The debtor absconded.

(g) The debtor removed or concealed assets.

(h) The value of the consideration received by the debtor was reasonably equivalent to the value of the asset transferred or the amount of the obligation incurred.

(i) The debtor was insolvent or became insolvent shortly after the transfer was made or the obligation was incurred.

(j) The transfer occurred shortly before or shortly after a substantial debt was incurred.

(k) The debtor transferred the essential assets of the business to a lienor who transferred the assets to an insider of the debtor.

(3) A qualified disposition is fraudulent as to the creditor whose claim arose after the qualified disposition only if the qualified disposition was made with actual intent to hinder, delay, or defraud any creditor of the debtor.

History: 1998, Act 434, Imd. Eff. Dec. 30, 1998;—Am. 2016, Act 331, Eff. Mar. 8, 2017.

566.35 Transfer by debtor as fraud.

Sec. 5. (1) A transfer made or obligation incurred by a debtor is fraudulent as to a creditor whose claim arose before the transfer was made or the obligation was incurred if the debtor made the transfer or incurred the obligation without receiving a reasonably equivalent value in exchange for the transfer or obligation and the debtor was insolvent at that time or the debtor became insolvent as a result of the transfer or obligation.

(2) A transfer made by a debtor is fraudulent as to a creditor whose claim arose before the transfer was made if the transfer was made to an insider for an antecedent debt, the debtor was insolvent at that time, and the insider had reasonable cause to believe that the debtor was insolvent.

History: 1998, Act 434, Imd. Eff. Dec. 30, 1998.

566.36 Completion of transfer; perfection.

Sec. 6. (1) A transfer is made under this act when 1 of the following occurs:

(a) With respect to an asset that is real property other than a fixture, but including the interest of a seller or purchaser under a contract for the sale of the asset, when the transfer is so far perfected that a good-faith purchaser of the asset from the debtor against whom applicable law permits the transfer to be perfected cannot acquire an interest in the asset that is superior to the interest of the transferee.

(b) With respect to an asset that is not real property or that is a fixture, when the transfer is so far perfected that a creditor on a simple contract cannot acquire a judicial lien otherwise than under this act that is superior to the interest of the transferee.

(2) If applicable law permits the transfer to be perfected as provided in subsection (1) and the transfer is not so perfected before the commencement of an action for relief under this act, the transfer is considered made immediately before the commencement of the action.

(3) If applicable law does not permit the transfer to be perfected as provided in subsection (1), the transfer

is made when it becomes effective between the debtor and the transferee.

(4) A transfer is not made under this act until the debtor has acquired rights in the asset transferred.

(5) An obligation is incurred under this act if 1 of the following occurs:

(a) If oral, when it becomes effective between the parties.

(b) If evidenced by a writing, when the writing executed by the obligor is delivered to or for the benefit of the obligee.

History: 1998, Act 434, Imd. Eff. Dec. 30, 1998.

566.37 Action for relief against transfer or obligation; right of creditor to execution on asset or proceeds.

Sec. 7. (1) In an action for relief against a transfer or obligation under this act, a creditor, subject to the limitations in section 8, may obtain 1 or more of the following:

(a) Avoidance of the transfer or obligation to the extent necessary to satisfy the creditor's claim.

(b) An attachment against the asset transferred or other property of the transferee to the extent authorized under section 4001 of the revised judicature act of 1961, 1961 PA 236, MCL 600.4001, and applicable court rules.

(c) Subject to applicable principles of equity and in accordance with applicable court rules and statutes, 1 or more of the following:

(i) An injunction against further disposition by the debtor or a transferee, or both, of the asset transferred or of other property.

(ii) Appointment of a receiver to take charge of the asset transferred or of other property of the transferee.

(iii) Any other relief the court determines appropriate.

(2) If a creditor has obtained a judgment on a claim against the debtor, the creditor, if the court so orders, may levy execution on the asset transferred or its proceeds.

History: 1998, Act 434, Imd. Eff. Dec. 30, 1998.

566.38 Transfer or obligation not voidable; recovery of judgment; rights of good-faith transferee or obligee.

Sec. 8. (1) A transfer or obligation is not voidable under section 4(1)(a) against a person who took in good faith and for a reasonably equivalent value or against any subsequent transferee or obligee.

(2) Except as otherwise provided in this section, to the extent a transfer is voidable in an action by a creditor under section 7(1)(a), the creditor may recover a judgment for the value of the asset transferred, as adjusted under subsection (3), or the amount necessary to satisfy the creditor's claim, whichever is less. The judgment may be entered against either of the following:

(a) The first transferee of the asset or the person for whose benefit the transfer was made.

(b) Any subsequent transferee other than a good-faith transferee who took for value or from any subsequent transferee.

(3) If the judgment under subsection (2) is based upon the value of the asset transferred, the judgment shall be for an amount equal to the value of the asset at the time of the transfer, subject to adjustment as the equities may require.

(4) Notwithstanding the voidability of a transfer or an obligation under this act, a good-faith transferee or obligee is entitled, to the extent of the value given the debtor for the transfer or obligation, to 1 or more of the following:

(a) A lien on or a right to retain any interest in the asset transferred.

(b) Enforcement of any obligation incurred.

(c) A reduction in the amount of the liability on the judgment.

(5) A transfer is not voidable under section 4(1)(b) or 5 if the transfer results from either of the following:

(a) Termination of a lease upon default by the debtor when the termination is pursuant to the lease and applicable law.

(b) Enforcement of a security interest in compliance with article 9 of the uniform commercial code, 1962 PA 174, MCL 440.9101 to 440.9708.

(6) A transfer is not voidable under section 5(2) if 1 or more of the following occur:

(a) To the extent the insider gave new value to or for the benefit of the debtor after the transfer was made unless the new value was secured by a valid lien.

(b) If made in the ordinary course of business or financial affairs of the debtor and the insider.

(c) If made pursuant to a good-faith effort to rehabilitate the debtor and the transfer secured present value given for that purpose as well as an antecedent debt of the debtor.

History: 1998, Act 434, Imd. Eff. Dec. 30, 1998;—Am. 2000, Act 362, Eff. July 1, 2001.

***** 566.39 THIS SECTION IS AMENDED EFFECTIVE MARCH 8, 2017: See 566.39.amended *****

566.39 Cause of action; extinguishment.

Sec. 9. A cause of action with respect to a fraudulent transfer or obligation under this act is extinguished unless action is brought under 1 or more of the following:

(a) Sections 4(1)(a) and (b) and 5(1), within the time period specified in sections 5813 and 5855 of the revised judicature act of 1961, 1961 PA 236, MCL 600.5813 and 600.5855.

(b) Section 5(2), within 1 year after the transfer was made or the obligation was incurred.

History: 1998, Act 434, Imd. Eff. Dec. 30, 1998.

***** 566.39.amended THIS AMENDED SECTION IS EFFECTIVE MARCH 8, 2017 *****

566.39.amended Cause of action; extinguishment.

Sec. 9. A cause of action with respect to a fraudulent transfer or obligation under this act is extinguished unless action is brought under 1 or more of the following:

(a) Except as otherwise provided in subdivision (c), sections 4(1)(a) and (b) and 5(1), within the time provided in section 5813 or 5855 of the revised judicature act of 1961, 1961 PA 236, MCL 600.5813 and 600.5855.

(b) Except as otherwise provided in subdivision (c), section 5(2), within 1 year after the transfer was made or the obligation was incurred.

(c) Sections 4 and 5, with respect to a qualified disposition, the time provided in section 5 of the qualified dispositions in trust act.

History: 1998, Act 434, Imd. Eff. Dec. 30, 1998;—Am. 2016, Act 331, Eff. Mar. 8, 2017.

566.40 Supplemental principles of law and equity.

Sec. 10. Unless in conflict with the provisions of this act, the principles of law and equity, including the law merchant and the law relating to principal and agent, estoppel, laches, fraud, misrepresentation, duress, coercion, mistake, insolvency, or other validating or invalidating cause, supplement the provisions of this act.

History: 1998, Act 434, Imd. Eff. Dec. 30, 1998.

566.41 Application and construction of act.

Sec. 11. This act shall be applied and construed to effectuate its general purpose to make uniform the law of fraudulent conveyance among the states enacting it.

History: 1998, Act 434, Imd. Eff. Dec. 30, 1998.

566.42 Short title.

Sec. 12. This act shall be known and may be cited as the “uniform fraudulent transfer act”.

History: 1998, Act 434, Imd. Eff. Dec. 30, 1998.

566.43 Repeal of MCL 566.11 to 566.23.

Sec. 13. The uniform fraudulent conveyance act, 1919 PA 310, MCL 566.11 to 566.23, is repealed.

History: 1998, Act 434, Imd. Eff. Dec. 30, 1998.

REVISED STATUTES OF 1846

CHAPTER 80

Chapter 80. Of Fraudulent Conveyances And Contracts Relative To Lands.

CHAPTER 80

FRAUDULENT CONVEYANCES.

566.101 Conveyance with intent to defraud; invalidity.

Sec. 1. Every conveyance of any estate or interest in lands, or the rents and profits of lands, and every charge upon lands or upon the rents and profits thereof, made or created with intent to defraud prior or subsequent purchasers for a valuable consideration, of the same lands, rents or profits, as against such purchasers, shall be void.

History: R.S. 1846, Ch. 80;—CL 1857, 3172;—CL 1871, 4687;—How. 6174;—CL 1897, 9504;—CL 1915, 11970;—CL 1929, 13406;—CL 1948, 566.101.

566.102 Notice of prior conveyance; effect.

Sec. 2. No such conveyance or charge shall be deemed fraudulent, in favor of a subsequent purchaser, who shall have actual or legal notice of the prior conveyance or charge, at the time of his purchase, unless it shall appear that the grantee in such prior conveyance, or person to be benefited by such charge, was privy to the fraud intended.

History: R.S. 1846, Ch. 80;—CL 1857, 3173;—CL 1871, 4688;—How. 6175;—CL 1897, 9505;—CL 1915, 11971;—CL 1929, 13407;—CL 1948, 566.102.

566.103 Conveyance reserving powers of revocation or alteration; invalidity.

Sec. 3. Every conveyance or charge of, or upon, any estate or interest in lands, containing any provision for the revocation, determination or alteration of such estate or interest, or any part thereof, at the will of the grantor, shall be void, as against subsequent purchasers from such grantor for a valuable consideration, of any estate or interest so liable to be revoked or determined, although the same be not expressly revoked, determined or altered by such grantor, by virtue of the power reserved or expressed in such prior conveyance or charge.

History: R.S. 1846, Ch. 80;—CL 1857, 3174;—CL 1871, 4689;—How. 6176;—CL 1897, 9506;—CL 1915, 11972;—CL 1929, 13408;—CL 1948, 566.103.

566.104 Conveyance by person authorized to revoke grant; validity.

Sec. 4. When a power to revoke a conveyance of any lands, or the rents and profits thereof, and to re-convey the same, shall be given to any person, other than the grantor in such conveyance, and such person shall thereafter convey the same lands, rents or profits, to a purchaser for a valuable consideration, such subsequent conveyance shall be valid, in the same manner, and to the same extent, as if the power of revocation were recited therein, and the intent to revoke the former conveyance expressly declared.

History: R.S. 1846, Ch. 80;—CL 1857, 3175;—CL 1871, 4690;—How. 6177;—CL 1897, 9507;—CL 1915, 11973;—CL 1929, 13409;—CL 1948, 566.104.

566.105 Conveyance before vesting of power to revoke; validity.

Sec. 5. If a conveyance to a purchaser, under either of the 2 last preceding sections, shall be made before the person making the same shall be entitled to execute his power of revocation, it shall nevertheless be valid, from the time the power of revocation shall actually vest in such person, in the same manner and to the same extent, as if then made.

History: R.S. 1846, Ch. 80;—CL 1857, 3176;—CL 1871, 4691;—How. 6178;—CL 1897, 9508;—CL 1915, 11974;—CL 1929, 13410;—CL 1948, 566.105.

566.106 Statute of frauds; conveyance of interest in lands other than one year lease.

Sec. 6. No estate or interest in lands, other than leases for a term not exceeding 1 year, nor any trust or power over or concerning lands, or in any manner relating thereto, shall hereafter be created, granted, assigned, surrendered or declared, unless by act or operation of law, or by a deed or conveyance in writing, subscribed by the party creating, granting, assigning, surrendering or declaring the same, or by some person thereunto by him lawfully authorized by writing.

History: R.S. 1846, Ch. 80;—CL 1857, 3177;—CL 1871, 4692;—How. 6179;—CL 1897, 9509;—CL 1915, 11975;—CL 1929, 13411;—CL 1948, 566.106.

566.107 Statute of frauds; will, trust by implication or operation of law.

Sec. 7. The preceding section shall not be construed to affect in any manner, the power of a testator in the disposition of his real estate, by a last will and testament; nor to prevent any trust from arising, or being extinguished, by implication or operation of law.

History: R.S. 1846, Ch. 80;—CL 1857, 3178;—CL 1871, 4693;—How. 6180;—CL 1897, 9510;—CL 1915, 11976;—CL 1929, 13412;—CL 1948, 566.107.

566.108 Statute of frauds; contract for interest in lands other than one year lease; sales at auction.

Sec. 8. Every contract for the leasing for a longer period than 1 year, or for the sale of any lands, or any interest in lands, shall be void, unless the contract, or some note or memorandum thereof be in writing, and signed by the party by whom the lease or sale is to be made, or by some person thereunto by him lawfully authorized in writing: Provided, That whenever any lands or interest in lands shall be sold at public auction and the auctioneer or the clerk of the auction at the time of the sale enters in a sale book a memorandum specifying the description and price of the land sold and the name of the purchaser, such memorandum, together with the auction bills, catalog or written or printed notice of sale containing the name of the person

on whose account the sale is made and the terms of sale, shall be deemed a memorandum of the contract of sale within the meaning of this section.

History: R.S. 1846, Ch. 80;—CL 1857, 3179;—CL 1871, 4694;—How. 6181;—CL 1897, 9511;—CL 1915, 11977;—Am. 1917, Act 83, Eff. Aug. 10, 1917;—CL 1929, 13413;—CL 1948, 566.108.

566.109 Statute of frauds; consideration, statement in contract, evidence.

Sec. 9. The consideration of any contract or agreement, required by the provisions of this chapter to be in writing, need not be set forth in the contract or agreement, or in the note or memorandum thereof, but may be proved by any other legal evidence.

History: R.S. 1846, Ch. 80;—CL 1857, 3180;—CL 1871, 4695;—How. 6182;—CL 1897, 9512;—CL 1915, 11978;—CL 1929, 13414;—CL 1948, 566.109.

566.110 Court of chancery; powers not abridged.

Sec. 10. Nothing in this chapter contained shall be construed to abridge the powers of the court of chancery to compel the specific performance of agreements, in cases of part performance of such agreements.

History: R.S. 1846, Ch. 80;—CL 1857, 3181;—CL 1871, 4696;—How. 6183;—CL 1897, 9513;—CL 1915, 11979;—CL 1929, 13415;—CL 1948, 566.110.

REVISED STATUTES OF 1846

CHAPTER 81

Chapter 81. Of Fraudulent Conveyances And Contracts, Relative To Goods, Chattels, And Things In Action.

566.131 Transfers in trust of property void as against creditors; exceptions.

Sec. 1. (1) Except as provided in subsections (2) to (4), a deed of gift, conveyance, transfer, or assignment, verbal or written, of property made in trust for the use of the person making the gift, conveyance, transfer, or assignment is void as against the creditors, existing or subsequent, of the person.

(2) Subsection (1) does not apply to the lapse, release, waiver, or disclaimer of a power of appointment given to a donee by a third party. As used in this subsection, "donee" means that term as defined in section 2 of the powers of appointment act of 1967, 1967 PA 224, MCL 556.112.

(3) Subsection (1) does not apply to the creation of a trust by an individual if all of the following apply:

(a) The individual created the trust for the benefit of the individual's spouse.

(b) The trust is treated as qualified terminable interest property under section 2523(f) of the internal revenue code, 26 USC 2523.

(c) The individual retains a beneficial interest in the trust income, trust principal, or both, which beneficial interest follows the termination of the individual's spouse's prior beneficial interest in the trust.

(4) Subsection (1) does not apply to a gift, conveyance, transfer, or assignment from a trust to a person who created the trust if all of the following apply:

(a) The trust is an irrevocable trust for the benefit of third parties.

(b) The trust is a grantor trust with regard to the person for income tax purposes under sections 671 to 679 of the internal revenue code, 26 USC 671 to 679.

(c) The trustee has the discretionary authority to reimburse or advance trust property to the person for taxes concerning income attributable to the trust property.

(d) The gift, conveyance, transfer, or assignment is the exercise by the trustee of the discretionary authority described in subdivision (c).

History: R.S. 1846, Ch. 81;—CL 1857, 3182;—CL 1871, 4697;—How. 6184;—CL 1897, 9514;—CL 1915, 11980;—CL 1929, 13416;—CL 1948, 566.131;—Am. 2009, Act 42, Eff. Apr. 1, 2010.

566.132 Agreements, contracts, or promises required to be in writing and signed; enforcement; "financial institution" defined.

Sec. 2. (1) In the following cases an agreement, contract, or promise is void unless that agreement, contract, or promise, or a note or memorandum of the agreement, contract, or promise is in writing and signed with an authorized signature by the party to be charged with the agreement, contract, or promise:

(a) An agreement that, by its terms, is not to be performed within 1 year from the making of the agreement.

(b) A special promise to answer for the debt, default, or misdoings of another person.

(c) An agreement, promise, or undertaking made upon consideration of marriage, except mutual promises to marry.

(d) A special promise made by a personal representative to answer damages out of his or her own estate.

(e) An agreement, promise, or contract to pay a commission for or upon the sale of an interest in real estate.

(f) An assignment of things in action, whether intended as a transfer for sale, for security, or otherwise.

(g) An agreement, promise, contract, or warranty of cure relating to medical care or treatment. This subdivision does not affect the right to sue for malpractice or negligence.

(2) An action shall not be brought against a financial institution to enforce any of the following promises or commitments of the financial institution unless the promise or commitment is in writing and signed with an authorized signature by the financial institution:

(a) A promise or commitment to lend money, grant or extend credit, or make any other financial accommodation.

(b) A promise or commitment to renew, extend, modify, or permit a delay in repayment or performance of a loan, extension of credit, or other financial accommodation.

(c) A promise or commitment to waive a provision of a loan, extension of credit, or other financial accommodation.

(3) As used in subsection (2), “financial institution” means a state or national chartered bank, a state or federal chartered savings bank or savings and loan association, a state or federal chartered credit union, a person licensed or registered under the mortgage brokers, lenders, and servicers licensing act, Act No. 173 of the Public Acts of 1987, being sections 445.1651 to 445.1683 of the Michigan Compiled Laws, or Act No. 125 of the Public Acts of 1981, being sections 493.51 to 493.81 of the Michigan Compiled Laws, or an affiliate or subsidiary thereof.

History: R.S. 1846, Ch. 81;—CL 1857, 3183;—CL 1871, 4698;—How. 6185;—CL 1897, 9515;—Am. 1913, Act 238, Eff. Aug. 14, 1913;—CL 1915, 11981;—CL 1929, 13417;—Am. 1945, Act 261, Eff. Sept. 6, 1945;—CL 1948, 566.132;—Am. 1974, Act 343, Imd. Eff. Dec. 21, 1974;—Am. 1992, Act 245, Eff. Jan. 1, 1993.

566.134 Auction sales; memorandum of contract.

Sec. 4. Whenever any goods shall be sold at auction and the auctioneer or the clerk of the auction at the time of sale enters in a sale book a memorandum specifying the nature and price of the property sold and the name of the purchaser, such memorandum, together with the auction bills, catalogue, or written or printed notice of sale containing the name of the person on whose account the sale is made and the terms of sale, shall be deemed a memorandum of the contract of sale within the meaning of the last section.

History: R.S. 1846, Ch. 81;—CL 1857, 3185;—CL 1871, 4700;—How. 6187;—CL 1897, 9517;—Am. 1907, Act 237, Eff. Sept. 28, 1907;—CL 1915, 11982;—CL 1929, 13418;—CL 1948, 566.134.

566.135 Representation concerning character; business or credit of another.

Sec. 5. No action shall be brought to charge any person, upon or by reason of any favorable representation or assurance, made concerning the character, conduct, credit, ability, trade or dealings of any other person, unless such representation or assurance be made in writing, and signed by the party to be charged thereby, or by some person thereunto by him lawfully authorized.

History: R.S. 1846, Ch. 81;—CL 1857, 3186;—CL 1871, 4701;—How. 6188;—CL 1897, 9518;—CL 1915, 11983;—CL 1929, 13419;—CL 1948, 566.135.

566.136 Consideration; evidence.

Sec. 6. The consideration of any contract, agreement or promise required by this chapter to be in writing, need not be expressed in the written contract, agreement or promise, or in any note or memorandum thereof, but may be proved by any other legal evidence.

History: R.S. 1846, Ch. 81;—CL 1857, 3187;—CL 1871, 4702;—How. 6189;—CL 1897, 9519;—CL 1915, 11984;—CL 1929, 13420;—CL 1948, 566.136.

566.137-566.146 Repealed. 1962, Act 174, Eff. Jan. 1, 1964.

Compiler's note: The repealed sections pertained to fraudulent conveyances and contracts with respect to goods, chattels, and things in action.

FORECLOSURE OF CHATTEL MORTGAGE OR PLEDGE

Act 57 of 1877

566.191 Repealed. 1962, Act 174, Eff. Jan. 1, 1964.

DISCHARGE OF CHATTEL MORTGAGES

Act 117 of 1881

566.201-566.202 Repealed. 1962, Act 174, Eff. Jan. 1, 1964. REVISED STATUTES OF 1846

CHAPTER 82

Chapter 82. General Provisions Relating To Fraudulent Conveyances And Contracts.

566.221 Acts to hinder or defraud creditors; invalidity.

Sec. 1. Every conveyance or assignment, in writing or otherwise, of any estate or interest in lands, or in goods or things in action, or of any rents or profits issuing therefrom, and any charge upon lands, goods or things in action, or upon the rents or profits thereof, made with the intent to hinder, delay or defraud creditors or other persons of their lawful suits, damages, forfeitures, debts or demands, and every bond or other evidence of debt given, suit commenced, decree or judgment suffered, with the like intent, as against the persons so hindered, delayed or defrauded, shall be void.

History: R.S. 1846, Ch. 82;—CL 1857, 3198;—CL 1871, 4713;—How. 6203;—CL 1897, 9533;—CL 1915, 11998;—CL 1929, 13434;—CL 1948, 566.221.

566.222 Grant or assignment of trust to be in writing.

Sec. 2. Every grant or assignment of any existing trust in lands, goods or things in action, unless the same shall be in writing and signed by the party making the same, or by his agent lawfully authorized, shall be void.

History: R.S. 1846, Ch. 82;—CL 1857, 3199;—CL 1871, 4714;—How. 6204;—CL 1897, 9534;—CL 1915, 11999;—CL 1929, 13435;—CL 1948, 566.222.

566.223 Acts void as against heirs or assigns of creditor and purchaser.

Sec. 3. Every conveyance, charge, instrument or proceeding, declared by law to be void as against creditors or purchasers, shall be equally void as against the heirs, successors, personal representatives or assigns of such creditors or purchasers.

History: R.S. 1846, Ch. 82;—CL 1857, 3200;—CL 1871, 4715;—How. 6205;—CL 1897, 9535;—CL 1915, 12000;—CL 1929, 13436;—CL 1948, 566.223.

566.224 Fraudulent intent; question of fact.

Sec. 4. The question of fraudulent intent, in all cases arising under this, or either of the last 2 preceding chapters, shall be deemed a question of fact and not of law.

History: R.S. 1846, Ch. 82;—CL 1857, 3201;—CL 1871, 4716;—How. 6206;—CL 1897, 9536;—CL 1915, 12001;—CL 1929, 13437;—CL 1948, 566.224.

Compiler's note: For provisions of "the last 2 preceding chapters," referred to in this section, see MCL 566.131 et seq. and MCL 566.101 et seq.

566.225 Purchaser without notice; protection.

Sec. 5. None of the provisions of this, or the last 2 preceding chapters, shall be construed, in any manner to affect or impair the title of a purchaser for a valuable consideration unless it shall appear that he had previous notice of the fraudulent intent of his immediate grantor, or of the fraud rendering void the title of such grantor.

History: R.S. 1846, Ch. 82;—CL 1857, 3202;—CL 1871, 4717;—How. 6207;—CL 1897, 9537;—CL 1915, 12002;—CL 1929, 13438;—CL 1948, 566.225.

Compiler's note: For provisions of "the last 2 preceding chapters," referred to in this section, see MCL 566.131 et seq. and MCL 566.101 et seq.

566.226 Conveyance; definition.

Sec. 6. The term "conveyance," as used in this and the preceding eightieth chapter, shall be construed to embrace every instrument in writing, except a last will and testament, whatever may be the form of such instrument, and by whatever name it may be known in law, by which any estate or interest in lands is created, aliened, assigned or surrendered.

History: R.S. 1846, Ch. 82;—CL 1857, 3203;—CL 1871, 4718;—How. 6208;—CL 1897, 9538;—CL 1915, 12003;—CL 1929, 13439;—CL 1948, 566.226.

Compiler's note: For provisions of the "eightieth chapter," referred to in this section, see MCL 566.101 et seq.

**AUTOMOBILE ACCESSORIES; RECORDING CHATTEL MORTGAGES AND CONDITIONAL
SALES CONTRACTS**
Act 305 of 1937

AN ACT to provide for the recording of certain chattel mortgages, conditional sales contracts and title retaining notes in certain cases, to provide for the method of recording same, and the duties of the secretary of state in connection therewith; and to make said chattel mortgages, conditional sales contracts and title retaining notes null and void and of no force and effect in certain cases.

History: 1937, Act 305, Imd. Eff. July 23, 1937;—Am. 1941, Act 202, Eff. Jan. 10, 1942.

The People of the State of Michigan enact:

566.251 Automobile accessories sold upon chattel mortgage or conditional sale; vendor to forward title and copy of mortgage to secretary of state; fee.

Sec. 1. Any person, firm or corporation selling to any owner of a motor vehicle which has heretofore or is hereafter issued a Michigan certificate of title as provided by Act No. 46 of the Public Acts of 1921, as amended, any accessory, equipment, additional part or replacement part for said motor vehicle, and securing the payment of same by the taking of a chattel mortgage, conditional sales contract or title retaining note upon such motor vehicle, shall at the time such sale is consummated furnish the purchaser a statement of said sale giving substantially the following information: date of sale; amount of chattel mortgage, conditional sales contract or title retaining note; accessory, additional part or replacement part sold and date of final payment of said chattel mortgage, conditional sales contract or title retaining note and shall immediately forward to the secretary of state the certificate of title of the purchaser and a true copy of the chattel mortgage, conditional sales contract or title retaining note, together with the sum of 50 cents to be paid by the purchaser of such accessory, additional part or replacement part.

History: 1937, Act 305, Imd. Eff. July 23, 1937;—Am. 1941, Act 202, Eff. Jan. 10, 1942;—CL 1948, 566.251.

Compiler's note: Act 46 of 1921, referred to in this section, was repealed by Act 300 of 1949.

566.252 Automobile accessories sold upon chattel mortgage or conditional sale; recording upon title; additional information.

Sec. 2. Upon receipt of such certificate of title and such true copy of the chattel mortgage, conditional sales contract or title retaining note by the secretary of state, accompanied by the fee of 50 cents, the secretary of state shall record upon the certificate of title in a suitable place the information contained in said chattel mortgage, conditional sales contract or title retaining note. The secretary of state may require such additional information as he deems necessary to fairly state the essential provisions of said chattel mortgage, conditional sales contract or title retaining note and after recording said chattel mortgage, conditional sales contract or title retaining note upon the certificate of title, return same to the owner thereof.

History: 1937, Act 305, Imd. Eff. July 23, 1937;—Am. 1941, Act 202, Eff. Jan. 10, 1942;—CL 1948, 566.252.

566.253 Automobile accessories sold upon chattel mortgage or conditional sale; invalid against bona fide purchaser unless recorded.

Sec. 3. No chattel mortgage, conditional sales contract or title retaining note upon any motor vehicle taken to secure the payment of the purchase price of the sale of any accessory, equipment, additional part or replacement part, shall be valid as against any subsequent purchaser of any motor vehicle heretofore or hereafter titled under the Michigan certificate of title law or against any person, firm or corporation loaning money on said motor vehicle subsequent to such sale unless the provisions of this act have been fully complied with by the seller as herein provided and no civil action of any nature shall lie or be maintained in any court of the state against such subsequent purchaser or mortgagee unless such chattel mortgage, conditional sales contract or title retaining note shall have been recorded upon the purchaser's certificate of title at the time and in the manner herein provided.

History: 1937, Act 305, Imd. Eff. July 23, 1937;—Am. 1941, Act 202, Eff. Jan. 10, 1942;—CL 1948, 566.253.

MOTOR VEHICLE INSTALLMENT SALES CONTRACTS

Act 305 of 1939

AN ACT to regulate retail installment sales contracts covering motor vehicles; to prescribe penalties for violations of the provisions of this act; and to repeal all acts and parts of acts inconsistent herewith.

History: 1939, Act 305, Eff. Sept. 29, 1939.

The People of the State of Michigan enact:

566.301 Motor vehicle installment sales contracts; definitions.

Sec. 1. Definition of terms. That in this act unless the context or subject matter otherwise requires:

(a) The term “retail installment sale” means and includes every retail contract to sell a motor vehicle and every retail sale of a motor vehicle to any person (1) in which the cash price of the motor vehicle may be paid in installments over a period of time, and (2) in which the seller has taken or retained a security interest in the motor vehicle thereby contracted to be sold.

(b) The term “motor vehicle” means every self-propelled device in, upon or by which any person or property is or may be transported or drawn upon a public highway, excepting devices used exclusively upon stationary rails or tracks and excepting also motorcycles, motor bicycles, farm tractors, road rollers and other machinery not designed primarily for highway transportation, but which may incidentally transport persons or property on the highway.

(c) The term “security interest” means a property interest in a motor vehicle which is the subject matter of a retail installment sale limited in extent to securing performance of some obligation of the retail buyer or of some third person to the retail seller and includes the interest of a mortgagee of a motor vehicle; the interest of the seller who retains title to a motor vehicle, whether or not expressed to be absolute, whenever such title is in substance retained for security only; and the interest of a bailor or lessor of a motor vehicle under any contract of bailment or leasing, by which the bailee or lessee contracts to pay as compensation a sum substantially equivalent to the value of the motor vehicle and by which it is agreed that the bailee or lessee is bound to become or has the option of becoming the owner of such motor vehicle upon full compliance with the terms of the contract.

(d) The term “seller” means a person, who sells or agrees to sell a motor vehicle, or any legal successor in interest of such person.

(e) The term “buyer” means a person who buys or agrees to buy a motor vehicle, or any legal successor in interest of such person.

(f) The term “retail” used in connection with the term “sale” or “contract” refers to and includes any transfer, conveyance, assignment or sale of a motor vehicle to any person other than a registered dealer in motor vehicles whose place of business is located in the state of Michigan or any other dealer in motor vehicles whose place of business is located outside of the state of Michigan when such transfer, conveyance, assignment or sale is made in the ordinary course of the seller's business.

(g) The term “retail installment contract” means any written instrument which is executed in connection with any retail installment sale and includes conditional sales contracts, purchase money chattel mortgages and bailment leases retaining a security interest in the seller.

(h) The term “cash price” means the price measured in dollars agreed upon in good faith by the parties as the consideration for the sale of a motor vehicle which is the subject matter of any retail installment sale, exclusive of all financing or other charges incident to such sale.

(i) The term “down payment” means that part of the cash price in any retail installment sale required by the retail seller to be paid at the time of the execution of the retail installment contract or prior to the delivery of possession of the motor vehicle sold.

(j) The term “finance charge” means any consideration which the retail buyer contracts to pay the retail seller for the privilege of paying the principal balance in installments over a period of time.

(k) The term “person” includes an individual, partnership, corporation and any other association.

(l) The term “finance company” as used in this act shall be deemed to include any person, firm, association or corporation engaged in the ordinary course of its business in purchasing or taking an assignment of or holding retail installment contracts.

The singular of any term shall include the plural thereof and the plural of any term shall include the singular. Each gender shall include each of the other genders.

History: 1939, Act 305, Eff. Sept. 29, 1939;—CL 1948, 566.301.

566.302 Contract; contents; delivery of copy and insurance policy to buyer.

Sec. 2. Every retail installment sale of a motor vehicle shall be evidenced by an instrument in writing signed by the retail buyer and a copy thereof shall be delivered to him by the retail seller at the time of its execution. An acknowledgment of the delivery thereof contained in the body of the instrument shall be conclusive proof of delivery in any action to enforce any obligation arising out of the retail installment sale brought by any successor in interest to the rights of the retail seller. The written instrument shall contain all of the agreements of the parties made with reference to the subject matter of the retail installment sale and shall recite the following separate items as such and in the following order: (1) the cash price of the motor vehicle which is the subject matter of the retail installment sale; (2) the amount in cash of the retail buyers' down payments, whether made in money or goods or partly in money and partly in goods; (3) the unpaid balance of the cash price payable by the retail buyer to the retail seller, which is the difference between items 1 and 2; (4) the cost to the retail buyer of any insurance the retail seller has agreed to procure, if the retail seller has agreed to purchase the insurance and extend credit to the retail buyer for the price thereof and if the term of such insurance is less than the contract period, the period of the coverage also shall be recited; (5) the principal balance owed on the retail installment contract, which is the sum total of items 3 and 4; (6) the amount of the finance charge; (7) the time balance owed by the retail buyer to the retail seller and the number of installment payments required and the amount and date of each payment necessary finally to pay the time balance, which is the sum total of items 5 and 6.

Item 4 and item 6 may be added together and stated as 1 sum in the written instrument and, if so stated, item 5 may be omitted, but in such event the retail seller shall within 25 days after the making of the retail installment contract, mail or cause to be mailed to the retail buyer at his address as shown on the retail installment contract a statement reciting the separate amounts of all the items, 1 to 7, inclusive. The reference to insurance in the written instrument shall recite generally the type or types of insurance the retail seller has agreed to procure for the retail buyer, but such reference to insurance shall not be construed to imply the scope of the coverage, the terms, exceptions, limitations, restrictions or conditions of the contract or contracts of insurance to be furnished. Any retail buyer shall have the right to purchase his own insurance from any person other than the retail seller, and in such event item 4 shall be omitted. No retail seller shall coerce, threaten or in any manner influence any retail buyer to purchase insurance from such retail seller, or from any company, agent or broker designated by the retail seller.

Any retail seller, who in any retail installment contract has agreed to purchase insurance for the retail buyer and to extend credit for the price thereof, shall, within 25 days after the making of the retail installment contract, mail or cause to be mailed to the retail buyer at his address as shown on the retail installment contract, a policy or policies of insurance, and in the event such policy or policies shall not be so mailed the seller shall not be entitled to recover, collect or retain that part of the obligation which represents item 4 in such contract and the buyer shall not be liable therefor.

Under a written instrument evidencing a retail installment sale which does not substantially comply with the requirements of this section, the seller shall not be entitled to recover, collect or retain that part of the obligation which represents the finance charge and the buyer shall not be liable therefor.

History: 1939, Act 305, Eff. Sept. 29, 1939;—CL 1948, 566.302.

566.303-566.314 Repealed. 1962, Act 174, Eff. Jan. 1, 1964.

Compiler's note: The repealed sections provided for regulation of retail installment sales contracts covering motor vehicles.

FORECLOSURE OF CHATTEL MORTGAGES
Act 290 of 1939

566.401-566.412 Repealed. 1962, Act 174, Eff. Jan. 1, 1964.

MORTGAGE OR PLEDGE OF SECURITIES
Act 187 of 1943

566.501 Repealed. 1962, Act 174, Eff. Jan. 1, 1964.

CORRESPONDENCE SCHOOL CONTRACTS
Act 331 of 1937

AN ACT to provide that the validity of any contract for the furnishing of a course of study or the sale of books executed by the purchaser in this state shall be determined by the laws of this state; and to provide that any defense which the maker would have to any instrument executed either in payment of, or as evidence of, or as security for the consideration to be paid by the purchaser shall be available to such maker in any action brought by any assignee or transferee of such instrument.

History: 1937, Act 331, Imd. Eff. July 24, 1937.

The People of the State of Michigan enact:

566.551 Contracts with correspondence schools; construction, negotiability.

Sec. 1. Any contract for the furnishing of a course of study or the sale of books or rendering other service in connection therewith by a correspondence school which is signed by the other party to such contract in this state shall for the purpose of this act be deemed to have been completely executed in this state and the validity of any such contract shall be determined by the laws of this state. Every assignee or other transferee of any such contract or other instrument, whether or not such instrument is negotiable and regardless of the person to whom such instrument is made payable, which is executed by such other party either in payment of, or as evidence of, or as security for the consideration which under such contract such other party is required to pay, or any part thereof, shall be conclusively presumed to have had knowledge at the time of the transfer of such instrument to him of any defense the maker thereof would have had as against the other party to such contract or instrument, which defense shall be available to him as defense in such action.

History: 1937, Act 331, Imd. Eff. July 24, 1937;—CL 1948, 566.551.

566.552 Correspondence school contracts; definitions.

Sec. 2. As used in this act the following terms shall have the meaning respectively ascribed to them in this section except in such case as the context clearly indicates a different meaning:

(a) "Correspondence school." Any school, preparatory school, business school, college, academy, university, other institution or any person that teaches or undertakes or proposes to teach students or renders any educational service or undertakes or proposes to prepare such students to study or furnishes or undertakes to furnish to any person a course of study, through the use of United States mail, express or other common carrier or by any means of communication other than resident instruction, and

(b) "Course of study" shall include education, teaching or instruction in any subject of general, business or professional education.

(c) "Owner." The person, partnership, association or corporation which owns or operates any correspondence school regardless of whether or not such school or the principal place of business thereof is located within or without the state of Michigan, or in case the same is owned by a natural person or partnership as to whether or not the owner or owners reside within the state of Michigan, or in case of an association or corporation, whether or not the same is organized or incorporated under the laws of the state of Michigan or some other state, and whether or not such corporation or association is authorized to do business in the state of Michigan.

(d) "Person" shall include a natural person, partnership, association and corporation.

The singular of any word shall include the plural and the plural of any word shall include the singular. Each gender shall include each of the other 2 genders.

History: 1937, Act 331, Imd. Eff. July 24, 1937;—CL 1948, 566.552.